

E1 - 18614



**RE: Replies to SHPO's Comments on Final PA**  
**kusske.floyd.kathryn** to: David.Navecky, johnson.jay

05/20/2011 05:55 PM

From: <kusske.floyd.kathryn@DORSEY.com>  
To: <David.Navecky@stb.dot.gov>, <johnson.jay@DORSEY.com>

Hi Dave,

ARRC and MSB have no comment on the SHPO's edits. Please proceed to distribute the Final PA for signature.

Thanks, Kathryn

Kathryn Kusske Floyd  
Partner

. . . . .  
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-----Original Message-----  
From: David.Navecky@stb.dot.gov [mailto:David.Navecky@stb.dot.gov]  
Sent: Thursday, May 19, 2011 9:38 AM  
To: Kusske Floyd, Kathryn; Johnson, Jay  
Subject: Fw: Replies to SHPO's Comments on Final PA

Kathryn and Jay -

As you recall, I sent out a revised PA last Friday, May 13 for consideration and requested replies by close-of-business, Wednesday, May 18. Judy Bittner, SHPO, replied with some minor word changes on Monday, May 16. This morning, the ACHP emailed that it was fine with the SHPO's edits of the May 13 version. The STB is also comfortable with the changes suggested by SHPO on May 16.

We have not heard from the Applicant or MSB on the May 13 version or the SHPO's May 16 edits.

If the Applicant and MSB have no comment on the SHPO's edits of the May 13 revised PA, I'm prepared to distribute the Final PA for signature and hopefully get it executed.

Please let me know.

Thanks,

Dave

----- Forwarded by David Navecky/STB on 05/19/2011 08:27 AM -----

From: "Bittner, Judith E (DNR)" <judy.bittner@alaska.gov>  
To: David.Navecky@stb.dot.gov, Najah Duvall-Gabriel  
<ngabriel@achp.gov>  
Cc: "Summerville, Alan" <ASummerville@icfi.com>, Charlene Vaughn  
<cvaughn@achp.gov>, "Gasek, Douglas F (DNR)"  
<doug.gasek@alaska.gov>, johnson.jay@DORSEY.com, "Kusske  
Floyd, Kathryn" <kusske.floyd.kathryn@dorsey.com>, Richard Starzak  
<rstarzak@icfi.com>, Vicki.Rutson@stb.dot.gov  
Date: 05/16/2011 04:37 PM  
Subject: RE: Replies to SHPO's Comments on Final PA

David - Attached is the 5/13/2011 Working Final PA with minor edits from SHPO. Stipulation III.A.1. To facilitate the development of the MOU I have added "SHPO" as a signatory to be consulted with during the development of the MOU by the Working Group.

A second change to the document is on page 27-28. The contact information for the Iditarod Historic Trail Alliance is updated with Lori Henry's contact information.

Judy Bittner

-----Original Message-----

From: David.Navecky@stb.dot.gov [mailto:David.Navecky@stb.dot.gov]  
Sent: Friday, May 13, 2011 10:26 AM  
To: Najah Duvall-Gabriel  
Cc: Summerville, Alan; Charlene Vaughn; Gasek, Douglas F (DNR);  
johnson.jay@DORSEY.com; Bittner, Judith E (DNR); Kusske Floyd, Kathryn;  
Richard Starzak; Vicki.Rutson@stb.dot.gov  
Subject: RE: Replies to SHPO's Comments on Final PA

Folks -

I agree with the SHPO's and ACHP's suggestion that other interested parties must be consulted throughout the MOU process. However, I have incorporated this suggestion using a different approach. I have added a new Stipulation

III.A.3 that requires the Working Group to specify consultation procedures in the MOU and to consult with other interested parties throughout the MOU implementation process (see attached). I have also incorporated ACHP's suggested edit for Stipulation V.A, added a new sentence to Stipulation

III.A.4 to clarify which parties must sign the MOU to execute the document, and made some minor edits to Stipulation B.1 to reflect consultations with other interested parties.

The reason I took this approach was the edit, as originally suggested by Judy, could have been interpreted to mean that the other interested parties would also be signatories to the MOU. However, this is a multi-year project, and the composition and level of active

participation by of the other interested parties would likely change over time depending on the leadership of the other interested parties at the time, the portion of the proposed 35-mile rail line being evaluated, the landowners and users groups being affected, etc. This could have brought the MOU process to a grinding halt as it bogged down in a logistical and administrative details associated with keeping the signatories and legal status of the MOU up-to-date.

If this mark-up is acceptable to everyone, I will accept the tracked changes, and will redistribute the Final PA for signature. Please let me know by close-of-business, Wednesday, May 18, 2011, if this mark-up is acceptable.

Thanks,

Dave Navecky  
202-245-0294

(See attached file: 5\_13\_11\_Working\_Final.doc)

From: "Najah Duvall-Gabriel" <ngabriel@achp.gov>  
To: "Judith E. Bittner" <judy.bittner@alaska.gov>, "Dave Navecky" <david.navecky@stb.dot.gov>  
Cc: "Charlene Vaughn" <cvaughn@achp.gov>, "Doug Gasek" <doug.gasek@alaska.gov>, "Summerville, Alan" <ASummerville@icfi.com>, "Richard Starzak" <rstarzak@icfi.com>, <Vicki.Rutson@stb.dot.gov>, "Kusske Floyd, Kathryn" <kusske.floyd.kathryn@dorsey.com>, <johnson.jay@DORSEY.com>  
Date: 05/10/2011 01:40 PM  
Subject: RE: Replies to SHPO's Comments on Final PA

Per a discussion with Charlene, I am advising STB that we agree with the SHPO's edits that clarify the expectation with regard to the inclusion of interested parties in the Working Group process. Also, as discussed with STB, we made some minor changes to Stipulation V by including KTC and MSB as parties with which ARRC will hold the Iditarod Dog Sledding Historic District Workshop to clarify the involvement of the Working Group parties in the workshop. (please see attached) We have no further comments about the final PA.

Thanks,

Najah Duvall-Gabriel  
Historic Preservation Specialist  
Advisory Council on Historic Preservation  
(o) 202.606.8585 (f) 202.606.5072  
ngabriel@achp.gov

-----Original Message-----

From: Bittner, Judith E (DNR) [mailto:judy.bittner@alaska.gov]  
Sent: Monday, May 09, 2011 3:52 PM  
To: Dave Navecky; Charlene Vaughn  
Cc: Najah Duvall-Gabriel; Doug Gasek; Summerville, Alan; Richard Starzak; Vicki.Rutson@stb.dot.gov; Kusske Floyd, Kathryn; johnson.jay@DORSEY.com  
Subject: RE: Replies to SHPO's Comments on Final PA

WE have one small change to broaden participation in the Working Group. The Working Group has broad responsibilities and should allow for the participation of interested parties who represent those broader interests and provide different areas of expertise needed for the plans, curation, survey, evaluation and oral history. The APE includes a mix of landowners and historic property types. Section 106 in all about consultation with interested parties. If this PA is to the use a Working Group concept, then the consultation concept needs to be part of the Working Group process.

Attached is a marked up copy with SHPO comments.

Judith Bittner

Alaska State Historic Preservation Officer

-----Original Message-----

From: David.Navecky@stb.dot.gov [mailto:David.Navecky@stb.dot.gov]  
Sent: Monday, May 09, 2011 10:55 AM  
To: cvaughn@achp.gov; Bittner, Judith E (DNR)  
Cc: ngabriel@achp.gov; Gasek, Douglas F (DNR); Summerville, Alan; Starzak, Richard; Vicki.Rutson@stb.dot.gov; Kusske Floyd, Kathryn; johnson.jay@DORSEY.com  
Subject: Replies to SHPO's Comments on Final PA

Folks -

I'm forwarding a reply by the Mat-Su Borough (MSB) and the Alaska Railroad to SHPO's May 2, 2011 comments on the Signature Version of the Final PA (see email text below and attached Word document).

I believe the MSB's and railroad's reply represents a reasonable response to the SHPO's comments and I propose that we move forward with these changes as the revised Final PA.

Despite the STB, MSB and railroad having already signed the April 15, 2011 Final PA, I will need to recirculate the document again for signature. My intent is to accept the attached version of the Final PA and then resend the document to the Signatories and Invited signatories for signature.

Please let me know by close-of-business Wednesday, May 11, 2011 if you concur that the attached Final PA can be circulated for signature, or if you have specific, substantive objections to the document.

Thanks,

Dave Navecky  
202-245-0294

----- Forwarded by David Navecky/STB on 05/09/2011 10:01 AM -----

From: <johnson.jay@DORSEY.com>  
To: <David.Navecky@stb.dot.gov>

Cc: <ASummerville@icfi.com>,  
<RStarzak@icfi.com>,  
<kusske.floyd.kathryn@DORSEY.com>  
Date: 05/06/2011 04:05 PM  
Subject: RE: Port MacKenzie  
Final PA -  
More SHPO  
Comments

Dave,

ARRC has reviewed the most recent changes to the Programmatic Agreement proposed by SHPO, and is writing this email to express its concerns.

In general, ARRC is concerned that adding new members to the Working Group created in Stipulation III of the PA conflicts with the primary purpose of forming a smaller group to address various issues that may arise in connection with specific stipulations. At the same time, ARRC recognizes SHPO's concern over adding the Iditarod Historic Dog Sledding District to the Working Group's responsibilities. But instead of expanding the Working Group, as SHPO suggests, ARRC believes that the best solution is to simply remove Stipulation V relating to the Iditarod Historic Dog Sledding District from the list of issues that will be addressed in the Working Group's Memorandum of Understanding. That change fully addresses SHPO's stated concern without altering the composition of the Working Group. (HTK and WDMA will still be able to participate in the Workshop conducted by ARRC pursuant to Stipulation V.) With the Iditarod Historic Dog Sledding Group removed from the Working Group's purview, there should be no need for additional changes to Stipulation III.D.

With regard to the other change proposed by SHPO, ARRC does not agree with the deletion of the word "contributing" on page 9 of the PA. ARRC considers "contributing element" to be a commonly used term of art with an accepted meaning. In ARRC's view, using the term "element" by itself is confusing.

A redline showing ARRC's proposed change to Stipulation III.D is attached.

We are happy to discuss these issues in more detail over the phone at your convenience.

Regards,

Jay

-----Original Message-----

From: David.Navecky@stb.dot.gov [mailto:David.Navecky@stb.dot.gov]  
Sent: Wednesday, May 04, 2011 10:16 AM  
To: Kusske Floyd, Kathryn; Johnson, Jay  
Cc: Summerville, Alan; Starzak, Richard  
Subject: Port MacKenzie Final PA - More SHPO Comments

Kathryn and Jay -

The SHPO has submitted more comments on the Final PA, dated April 15,

2011, that had been sent out for signature. I have attached the two pages that contain edits. Let me know if the edits are acceptable to ARRC and MSB.

I've made a similar inquiry with the ACHP.

Thanks,

Dave

(See attached file: SHPO Edits on Final PA.pdf) (See attached file: Final PA 04-15-2011 (2).doc)  
[attachment "Final PA 04-15-2011 (2).rtf" deleted by David Navecky/STB]  
(See attached file: 5\_13\_11\_Working\_Finaljudyedit.doc)